

March 4, 2008

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

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REPORT AND DECISION (RESENT WITH APPEAL LANGUAGE ATTACHED)

SUBJECT: Department of Development and Environmental Services File No. **L06P0020**
Proposed Ordinance No. **2008-0026**

CARNEY SUBDIVISION
Preliminary Plat Application

Location: Southeast 192nd Street, East of 142nd Place Southeast and the Plat of
Lori Lane

Applicant: **Seattle Redevelopment, LLC**
Attn: Marc Russo
P.O. Box 2566
Renton, Washington 98056
Telephone: (206) 948-8899

King County: Department of Development and Environmental Services (DDES)
represented by **Chad Tibbits**
900 Oakesdale Avenue Southwest
Renton, Washington 98055
Telephone: (206) 296-7194
Facsimile: (206) 296-7051

SUMMARY OF RECOMMENDATIONS/DECISION:

Department's Preliminary Recommendation:	Approve, subject to conditions
Department's Final Recommendation:	Approve, subject to conditions
Examiner's Decision:	Approve, subject to conditions

ISSUES AND TOPICS ADDRESSED:

Surface water drainage, road easements, fence encroachments

SUMMARY:

A subdivision of 12 lots in the urban area is approved subject to conditions.

EXAMINER PROCEEDINGS:

Hearing Opened:
Hearing Closed:

February 28, 2008
February 28, 2008

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

FINDINGS, CONCLUSIONS & DECISION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:**1. General Information:**

Applicant:	JayMarc Development, LLC Attn. Marc Russo P.O. Box 2566 Renton, WA 98056 206-948-8899
Engineer:	ESM Consulting Engineers 33915-1 st Way S., #200 Federal Way, WA 98003 253-838-6113
STR:	03-22-05
Location:	The site is located on SE 192 nd Street, east of 142 nd Place SE and the Plat of Lori Lane, Postal City Renton, WA.
Zoning:	R-6
Acreage:	2.65 acres
Number of Lots:	12
Density:	Approximately 5 units per acre
Lot Size:	Approximately 3,844 to 6,975 square feet in size
Proposed Use:	Single Family Detached Dwellings
Sewage Disposal:	Soos Creek Water & Sewer District
Water Supply:	Soos Creek Water & Sewer District
Fire District:	King County Fire District No. 37
School District:	Kent School District No. 415
Complete Application Date:	December 7, 2006
Associated Applications:	Road Variance L07V0043 (Attachment 2)

2. Except as modified herein, the facts set forth in the King County Land Use Services Division's (LUSD) revised preliminary report to the King County Hearing Examiner for the February 28, 2008 public hearing are found to be correct and are incorporated herein by this reference. The LUSD staff recommends approval of the application, subject to conditions.

3. Lots three and four of the proposed subdivision will access 143rd Place Southeast from a joint use driveway.

A variance from the King County Roads Standards granted by the King County Road Engineer authorizes construction of the intersection of 143rd Place Southeast and Southeast 192nd Street with 555 feet of entering site distance to the west from 143rd Place Southeast. The variance also authorizes construction of 143rd Place Southeast as a 755 foot long cul-de-sac, with a temporary turnaround at the south end of 143rd Place Southeast on the subject property.

4. The applicant has entered into agreements with the adjacent property owners who have an interest in the property that will be dedicated as public right-of-way for 143rd Place Southeast. These agreements appear to provide the applicant with sufficient interest to assure that 143rd Place Southeast can be constructed and dedicated to King County, from Southeast 192nd Street to the south boundary of the subject property (Carney Plat).
5. The existing runoff from the subject property, as it traverses the area between lots 41 and 42 in the adjacent plat of Lori Lane, causes saturation of the ground between the houses constructed on those lots. This problem is defined as a “conveyance nuisance problem” by the Surface Water Design Manual. The saturation results from problems with maintenance of the private culvert that conveys runoff at that location. The proposed development of the Carney Plat will retain surface water in accordance with the “conservation flow” standard. This will provide mitigation for the condition on lots 41 and 42 that is in excess of the mitigation normally required for conveyance nuisance problems.
6. There are fences located on the subject property that create encroachments by two adjacent properties. The applicant has entered into agreements with those property owners that will result in the relocation of those fences onto the surveyed property lines, and elimination of those encroachments.

CONCLUSIONS:

1. If approved subject to the conditions recommended below, the proposed subdivision will comply with the goals and objectives of the King County Comprehensive Plan, subdivision and zoning codes, and other official land use controls and policies of King County.
2. If approved subject to the conditions recommended below, this proposed subdivision will make appropriate provision for the public health, safety and general welfare, and for open spaces, drainage ways, streets, other public ways, transit stops, potable water supply, sanitary waste, parks and recreation, playgrounds, schools and school grounds and safe walking conditions for students who only walk to school; and it will serve the public use and interest.
3. The conditions for final plat approval recommended below are in the public interest and are reasonable and proportionate requirements necessary to mitigate the impacts of the development upon the environment.
4. The dedications of land or easements within and adjacent to the proposed plat, as required for final plat approval or as shown on the revised proposed preliminary plat submitted by the Applicant on June 25, 2007, are reasonable and necessary as a direct result of the development of this proposed plat, and are proportionate to the impacts of the development.

DECISION:

The subject subdivision as revised and received June 25, 2007 is granted preliminary approval, subject to the following conditions of final plat approval:

1. Compliance with all platting provisions of Title 19A of the King County Code.
2. All persons having an ownership interest in the subject property shall sign on the face of the final plat a dedication that includes the language set forth in King County Council Motion No. 5952.
3. The plat shall comply with the base density and minimum density requirements of the R-6 zone classification. All lots shall meet the minimum dimensional requirements of the R-6 zone classification or shall be shown on the face of the approved preliminary plat, whichever is larger, except that minor revisions to the plat which do not result in substantial changes may be approved at the discretion of the Department of Development and Environment Services.

Any/all plat boundary discrepancy shall be resolved to the satisfaction of DDES prior to the submittal of the final plat documents. As used in this condition, "discrepancy" is a boundary hiatus, an overlapping boundary or a physical appurtenance which indicates an encroachment, lines of possession or a conflict of title.

4. All construction and upgrading of public and private roads shall be done in accordance with the King County Road Standards established and adopted by Ordinance No. 11187, as amended (1993 KCRS).
5. The applicant must obtain the approval of the King County Fire Protection Engineer for the adequacy of the fire hydrant, water main, and fire flow standards of Chapter 17.08 of the King County Code.
6. The drainage facilities shall meet the requirements of the 2005 King County Surface Water Design Manual (KCSWDM). The site is subject to the Conservation flow control and Basic water quality requirements of the 2005 KCSWDM.

To implement the required Best Management Practices (BMP's) for treatment of storm water, the final engineering plans and technical information report (TIR) shall clearly demonstrate compliance with all applicable design standards. The requirements for best management practices are outlined in Chapter 5 of the 2005 KCSWDM. The design engineer shall address the applicable requirements on the final engineering plans and provide all necessary documents for implementation. The final recorded plat shall include all required covenants, easements, notes, and other details to implement the required BMP's for site development.

7. The proposed subdivision shall comply with the 1993 King County Road Standards (KCRS) including the following requirements:

Road A (143rd Pl SE) shall be improved at a minimum to the urban subcollector street standard: 14 feet of pavement, curb, gutter and sidewalk on the east side of the right-of-way centerline. A minimum 11 foot driving lane and 5 foot shoulder shall be constructed on the west side of the centerline. A full temporary turnaround (80-foot diameter) shall be provided at the southerly end of Road A, per the KCRS. Appropriate R/W for these improvements, and easements for the temporary turnaround, shall be dedicated or otherwise conveyed with the final plat. The offsite

R/W for the west portion of Road A, adjoining Lots 5 thru 12, shall be deeded prior to engineering plan approval.

The full curb return (35-foot radius) shall be constructed at the northeast quadrant of the 143rd Place SE, consistent with a future curbline on 192nd Avenue SE that is located 22-feet from the SE 192nd Street right-of-way centerline.

A pavement edge radius of 35-feet shall be constructed at the northwest quadrant of the 143rd Place SE/SE 192nd Street intersection.

The joint use driveway shall be improved to the joint use driveway standard per Section 3.01 of the KCRS. This Tract shall be owned and maintained by the Lots served.

Modifications to the above road conditions may be considered according to the variance provisions in Section 1.08 of the KCRS.

Road Variance L07V0043 is approved for this development. All conditions of approval for this variance shall be met prior to engineering plan approval.

8. All utilities within proposed rights-of-way must be included within a franchise approved by the King County Council prior to final plat recording.
9. The applicant or subsequent owner shall comply with King County Code 14.75, Mitigation Payment System (MPS), by paying the required MPS fee and administration fee as determined by the applicable fee ordinance. The applicant has the option to either: (1) pay the MPS fee at the final plat recording, or (2) pay the MPS fee at the time of building permit issuance. If the first option is chosen, the fee paid shall be the fee in effect at the time of plat application and a note shall be placed on the face of the plat that reads, "All fees required by King County Code 14.75, Mitigation Payment System (MPS), have been paid." If the second option is chosen, the fee paid shall be the amount in effect as of the date of building permit application.
10. Lots within this subdivision are subject to King County Code 21A.43, which imposes impact fees to fund school system improvements needed to serve new development. As a condition of final approval, fifty percent (50%) of the impact fees due for the plat shall be assessed and collected immediately prior to the recording, using the fee schedules in effect when the plat receives final approval. The balance of the assessed fee shall be allocated evenly to the dwelling units in the plat and shall be collected prior to building permit issuance.
11. Suitable recreation space shall be provided consistent with the requirements of K.C.C. 21A.14.180 and K.C.C. 21A. 14.190 (i.e., sport court[s], children's play equipment, picnic table[s], benches, etc.).
 - a. A detailed recreation space plan (i.e., location, area calculations, dimensions, landscape specs, equipment specs, etc.) shall be submitted for review and approval by DDES and King County Parks prior to or concurrent with the submittal of engineering plans.
 - b. A performance bond for recreation space improvements shall be posted prior to recording of the plat.

12. A homeowners' association or other workable organization shall be established to the satisfaction of DDES which provides for the ownership and continued maintenance of the recreation space tract.
13. Street trees shall be provided as follows (per KCRS 5.03 and K.C.C. 21A.16.050):
 - a. Trees shall be planted at a rate of one tree for every 40 feet of frontage along all roads. Spacing may be modified to accommodate sight distance requirements for driveways and intersections.
 - b. Trees shall be located within the street right-of-way and planted in accordance with Drawing No. 5-009 of the 1993 King County Road Standards, unless King County Department of Transportation determines that trees should not be located in the street right-of-way.
 - c. If King County determines that the required street trees should not be located within the right-of-way, they shall be located no more than 20 feet from the street right-of-way line.
 - d. The trees shall be owned and maintained by the abutting lot owners *or* the homeowners association or other workable organization unless the county has adopted a maintenance program. Ownership and maintenance shall be noted on the face of the final recorded plat.
 - e. The species of trees shall be approved by DDES if located within the right-of-way, and shall not include poplar, cottonwood, soft maples, gum, any fruit-bearing trees, or any other tree or shrub whose roots are likely to obstruct sanitary or storm sewers, or that is not compatible with overhead utility lines.
 - f. The applicant shall submit a street tree plan and bond quantity sheet for review and approval by DDES prior to engineering plan approval.
 - g. The applicant shall contact Metro Service Planning at (206) 684-1622 to determine if SE 192nd Street is on a bus route. If SE 192nd Street is a bus route, the street tree plan shall also be reviewed by Metro.
 - h. The street trees must be installed and inspected, or a performance bond posted prior to recording of the plat. If a performance bond is posted, the street trees must be installed and inspected within one year of recording of the plat. At the time of inspection, if the trees are found to be installed per the approved plan, a maintenance bond must be submitted or the performance bond replaced with a maintenance bond, and held for one year. After one year, the maintenance bond may be released after DDES has completed a second inspection and determined that the trees have been kept healthy and thriving.
14. A landscape inspection fee shall also be submitted prior to plat recording. The inspection fee is subject to change based on the current county fees.
15. To implement K.C.C. 21A.38.230 which applies to the site, a detailed tree retention plan shall be submitted with the engineering plans for the subject plat. The tree retention plan (and engineering plans) shall be consistent with the requirements of K.C.C. 21A.38.230. No clearing of the subject property is permitted until the final tree retention plan is approved by LUSD. Flagging and temporary fencing of trees to be retained shall be provided, consistent with K.C.C.

- 21A.38.230.B.4. The placement of impervious surfaces, fill material, excavation work, or the storage of construction materials is prohibited within the fenced areas around preserved trees, except for grading work permitted pursuant to K.C.C. 21A.38.230.B.4.d.(2).
16. A note shall be placed on the final plat indicating that the trees shown to be retained on the tree retention plan shall be maintained by the future owners of the proposed lots, consistent with K.C.C. 21A.38.230.B.6. (Note that the tree retention plan shall be included as part of the final engineering plans for the subject plat.)
17. The Category III wetland shall have a 50 foot buffer as shown on the June 25, 2007 site plan.
- a. The Type ‘N’ aquatic area (stream) located within the on-site wetland shall have a 65 foot buffer as measured from the ordinary high water mark (OHWM) as shown on the June 25, 2007 site plan.
 - b. The stream and buffer shall be placed in Critical Area Tracts (CAT) for long term protection. A four foot high split railed fence or similar shall be installed along the CAT boundary. Critical Area signs, one per lot on those lots that abut the CAT, shall be installed on or near the fence.
 - c. A 15’ building set back line (BSBL) is required from the edge of Critical Area Tracts and shall be shown on all affected lots.
 - d. The impacts to Critical Areas and buffers maybe allowed for the construction of proposed Road ‘A’ provided a final mitigation plan is submitted during engineering review. Construction techniques to minimize impacts to critical areas and buffer shall be considered during final road design. Techniques may include the use of retaining walls within the right-of-way.
 - e. Impacts to wetlands and streams may require approval/permits from other review agencies such as the State Department of Fish and Wildlife. It will be the applicant’s responsibility to obtain approvals from other review agencies and submit the approvals/permits during engineering review.
 - f. Prior to construction or clearing activities on site the CAT boundaries shall be clearly marked with orange construction fencing or similar, and shown on the engineering plans. The fencing shall remain in place until all clearing or construction is completed.
 - g. The engineering plans shall be submitted and reviewed by Critical Areas Staff.

ORDERED this 4th day of March, 2008.

James N. O’Connor
King County Hearing Examiner *pro tem*

NOTICE OF RIGHT TO APPEAL

In order to appeal the decision of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$250.00 (check payable to King County Office of Finance) ***on or before March 18, 2008***. If a notice of appeal is filed, the original and six (6) copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council ***on or before March 25, 2008***. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 1025, King County Courthouse, 516 3rd Avenue, Seattle, Washington 98104, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within fourteen (14) calendar days of the date of this report, or if a written appeal statement and argument are not filed within twenty-one (21) calendar days of the date of this report, the decision of the hearing examiner contained herein shall be the final decision of King County without the need for further action by the Council.

MINUTES OF THE FEBRUARY 28, 2008 PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. L06P0020.

James N. O'Connor was the Hearing Examiner in this matter. Participating in the hearing were Chad Tibbits and Bruce Whittaker, representing the Department; Eric LaBrie, representing the Applicant, and Anthony Takeoka.

The following Exhibits were offered and entered into the record:

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|----------------|--|
| Exhibit No. 1 | Department of Development and Environmental Services file no. L06P0020 |
| Exhibit No. 2 | Department of Development and Environmental Services Preliminary Report, dated February 28, 2008 |
| Exhibit No. 3 | Application for Land Use Permits dated October 18, 2006 |
| Exhibit No. 4 | SEPA checklist received October 18, 2006 |
| Exhibit No. 5 | SEPA Determination of Non-Significance issued October 18, 2006 |
| Exhibit No. 6 | Affidavit of Posting indicating a posting date of July 27, 2007; received by DDES on July 27, 2007 |
| Exhibit No. 7 | Preliminary plat map received June 25, 2007 |
| Exhibit No. 8 | Revised Level 1 Downstream Analysis prepared by ESM Consulting Engineers, received June 25, 2007 |
| Exhibit No. 9 | L07VA0043 King County Road Variance (Attachment 2 of the preliminary report to the examiner) |
| Exhibit No. 10 | Preliminary road, grading and utility plan prepared by ESM Consulting Engineers, dated June 25, 2007 |
| Exhibit No. 11 | Preliminary landscape design plan prepared by ESM Consulting Engineers, dated June 25, 2007 |
| Exhibit No. 12 | Conceptual neighborhood circulation plan prepared by ESM Consulting Engineers, dated June 25, 2007 |
| Exhibit No. 13 | Revised pedestrian walkway conditions prepared by ESM Consulting Engineers, dated June 25, 2007 |

- Exhibit No. 14 Critical areas assessment and delineation report prepared by Chad Armour, LLC dated October 18, 2006
- Exhibit No. 15 Wetland mitigation plan prepared by Chad Armour, LLC dated June 25, 2007
- Exhibit No. 16 Downstream drainage path map, annotated by DDES

JNOC:vsm

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